

A D J U D G E D
I N T H E
SUPREME COURT
O F
N E W - J E R S E Y ;
RELATIVE TO THE
M A N U M I S S I O N
O F
N E G R O E S
AND OTHERS HOLDEN IN BONDAGE

—“GOD has created men of all nations, of all languages, of ALL COLOURS, EQUALLY FREE :

“ SLAVERY, in all its forms, in all its degrees, is a violation of the divine laws, and a degradation of human nature.”

B U R L I N G T O N,
PRINTED FOR “ THE NEW-JERSEY SOCIETY FOR PROMOTING THE ABOLITION OF SLAVERY,”
BY ISAAC NEALE,—M,DCC,XCIV.

AT a general Meeting of the NEW-JERSEY SOCIETY FOR PROMOTING THE ABOLITION OF SLAVERY, *September 2,* 1793,

RESOLVED,

That the *President* of this Society collect and have printed, the ‘ Decisions of the Supreme Court in this State, relative to the ‘ Manumission of Negroes and others, unlawfully holden in Bondage.

EXTRACT FROM THE MINUTES,

ROBERT SMITH, JUN.

SECRETARY.

C A S E S
A D J U D G E D
I N T H E
S U P R E M E C O U R T
O F
N E W - J E R S E Y.



November Term, 1775.

(Minutes, p. 44, 14)

The KING *against* ESTHER BARBER and others
*On Habeas Corpus for to bring the Body of Beulah
Negro Girl.*

BY the Admission of the Counsel, it appeared Beulah the Negro Girl, brought up by the Habeas Corpus, and now before the Court, is the Daughter of a Negro Man and Negro Woman, the first named Isaac and the other named Dinah, both of whom formerly belonged to Caleb Haines, of the City of Burlington, the said Negroes David and Dinah, were set free by the said Caleb Haines in his life time, and before the Birth of the said Girl Beulah, without having given any Bond or Security, pursuant to the Act of Assembly, passed in the twelfth and thirteenth Years of her late Majesty Queen Ann; for this Reason the said Manumission was alledged to be void.

The Court having heard the Arguments of Counsel for and against the said Esther Barber and others, as for the said Beulah, at the Term of May last, and now again at this present Term, and having fully considered the same, *are of Opinion*, That the said Manumission by the said Caleb Haines, of the said David and Dinah, the Parents of the said Beulah, was good in Law against the said

ON the Application of Joseph Bloomfield, Esquire, President of the *New-Jersey Society for promoting the Abolition of Slavery*, I have carefully examined the following Cases with the original Entries thereof, in the Minutes of the Supreme Court of New-Jersey; and I do hereby certify, that the same are truly taken from the said Minutes,

GERSHEM CRAFT, for the Clerk
of the Supreme Court.

November 25, 1793.

JUSTICES OF THE SUPREME COURT,

AND

ATTORNEY GENERALS

OF THE STATE OF NEW-JERSEY, SINCE 1774.

1774 to May Term 1776 inclusive.	}	Frederick Smyth, Chief Justice. David Ogden, } Justices Richard Stockton, } Cordland Skinner, Atty. General.
1776 September 4.	}	William Paterfon, Atty. General.
1777 February 5.	}	Robert Morris, Chief Justice.
15.	}	Isaac Smith, } Justices. John Cleves Symmes, }
1779 June 10.	}	David Brearly, Chief Justice.
1783 June 13.	}	Joseph Bloomfield, Atty. General.
1788 September 4.	}	John Chetwood, Third Justice.
1789 November 20.	}	James Kinsey, Chief Justice.
1792 May 23.	}	Aaron D. Woodruff, Atty. General.

Haines and those claiming under him, notwithstanding the not giving Bond as aforesaid; and that the same Beulah is entitled to her Freedom under the said Manumission against the said Caled Haines, and all claiming under him; and do order her the said Beulah to be delivered up from out of the Custody of the said Esther Barber and others, in which she hath been illegally detained.

April Term, 1782.

The STATE *against* JACOBUS VANHUYLS.

On Habeas Corpus for Negro Will Claiming his Freedom.

THE Court having heard the Arguments of Counsel on the Part of Negro Will, and the Reasons assigned for and against his Freedom, and the Evidence in Support thereof: It is ordered by the Court that the said Negro *Will* be, and he is hereby discharged and set Free from the said Jacobus Vanhuys, on Motion of Mr Deare.

Kinsey, Elias Boudinot, and the Attorney General for the Negro.

Sergeant, and Paterfon, for Defendant.

September Term, 1782.

(p. 36.)

The STATE *against* EDMUND BAINBRIDGE.

On Habeas Corpus of Negro Nelly.

IT appearing to the Court, and the said *Edmund Bainbridge* conceding, that the said Negro Nelly was formerly the Property of Edmund Bainbridge, the elder, of Maidenhead, deceased, who let his Daughter Abigail,

late the Wife of Thomas Biles, of Bucks County in Pennsylvania, deceased, gave her when very young; that many Years afterwards he made his Will and bequeathed her to his said Daughter Abigail, during the Life of his said Daughter, and to her Issue, and did further order, that if she should die childless, then the said Negro Nelly should be sold, and the Money appropriated as mentioned in his said Will; that the said Abigail Biles who survived her Husband and her Father, did by her Will dated 30th April 1779, set forth and declare, that the said Negro Nelly had by her said Father been presented to her on a New-Year's Day, when she was a Child, and therefore, both from that Gift and from bringing her up, she had a better Right to dispose of her than any other Person, and did therein order and direct, that the said Negro Nelly should be manumitted and set free, a thing which she had very much at Heart; that the said Negro Nelly resided in the State of Pennsylvania at the Time of the passing of the Act for the gradual Abolition of Slavery, 1st March, 1780, and until the first of November in the same Year, the Term and Period allowed and fixed in the said Act for registering Slaves and for some Time afterwards; that she was not registered as the said Act requires, and that she is not within the Exceptions specified therein.

The Court having fully considered the Premises, *unanimously of Opinion*, That the Manumission of the said Negro Nelly by the said Abigail Biles, Daughter of the aforesaid Edmund Bainbridge, is good in Law against all Persons claiming under either of them; the said Edmund Bainbridge, having given her to his said Daughter, when she the said Negro Nelly was a Child, and his said Daughter having directed by her Will that she should be manumitted; and further that the said Negro Nelly, not having been registered as the above mentioned Act of the State of Pennsylvania requires, and therefore entitled to Free-lom in that State, is not by Law put in a worse Situation here: It is therefore *Ord. r. d.* That the said Negro Nelly be discharged and set at Liberty from the said Edmund Bainbridge. On Motion of Mr. Morris for Mr. Houston.

IN THE SAME TERM OF

September, 1782.

(p. 48.)

The STATE *against* LEWIS MC. KNIGHT.*On Habeas Corpus to bring the Body of Negro Caesar Tite.*

THE Defendant having returned the Habeas Corpus, and brought up the Body of the said Negro Caesar Tite, It is ordered that the Defendant enter into Security in the Sum of Two Hundred Pounds to bring up the Body of the said Negro Caesar on the second Tuesday in November next, and abide the Judgment of the Court respecting the said Negro, and that in Case the said Negro should be adjudged by this Court free, that the said Lewis M^c Knight shall pay for the Service of the said Negro from this Time.

Recognizance accordingly.

September Term, 1782.

(p. 49.)

The STATE *against* ENLOES PHILPOT.

WHEREAS, it hath appeared to this Court, upon the Affidavit of Jack Tappen, that the Defendant holds a certain Anthony Tappen in Bondage and Slavery, without lawful Authority for the same as the said Jack alledgeth: therefore, *Ordered*, on Motion of Mr. Leake for the said Anthony, that a Writ of *Habeas Corpus ad faciendum subjiciendum et Recipiendum* do issue, returnable to this Court at the next Term.

November Term, 1782.

(p. 59.)

The STATE *against* LEWIS Mc. KNIGHT.

On Habeas Corpus of Negro Cæsar Tite.

AGREEABLY to the Command of the within Writ, I have here in Court the Body of the within mentioned Cæsar Tite, and do say that the said Negro Tite is my Property, being bought of Kenneth Hankinson, Esquire, for valuable Consideration, and he is not a free Man; but I am willing and desirous to contest that Property by a Jury of the Country, agreeably to the Laws of this State, and pray that it may not be taken from me without a Trial by Jury, &c.

LEWIS Mc. KNIGHT.

IN THE SAME TERM OF

November, 1782.

(p. 76.)

IN THE SAME CAUSE OF

The STATE *against* LEWIS Mc. KNIGHT.

IT appearing to the Court, that the said Negro Cæsar Tite, brought up by *Habeas Corpus*, and now before the Court, heretofore belonged to Grace Tite, of the County of Monmouth, who by her last Will and Testament ordered that he should be free when he attained the Age of Twenty-one Years, till which period he was to serve Thomas Leonard of the said County of Monmouth; that the said Thomas Leonard joined the Enemy some Time before the Expiration of the said Service, and the said Negro Cæsar Tite was sold at Public Vendue, with other confiscated personal Property of the said

Thomas Leonard, by the Commissioners of forfeited Estates for the County of Monmouth, and bought by David Forman, Esq. who afterwards sold him to Kenneth Hankinson, Esq. and he to the said Lewis M'Knight the Defendant; that no Bond was given by the said Grace Tite, pursuant to the Act of Assembly, passed in the twelfth and thirteenth Years of the late Queen Ann: And that the said Negro Cæsar Tite is now above Twenty-one Years old, *to wit*, of the Age of about Twenty-four or Twenty-five.

The Court having heard the Arguments of Counsel on both sides, and fully considered thereof, *are unanimously of Opinion*, That the said Manumission is good in Law against all Persons claiming under the said Grace Tite, notwithstanding Bond was not given as aforesaid; *and do order*, on Motion of Mr. Bloomfield for the Attorney-General, that the Negro Cæsar Tite be discharged and set at Liberty from the said Lewis M'Knight.

September Term, 1783.

(p. 252. 270.)

MERCY HILL *against* WILLIAM LEDDELL.

On Habeas Corpus for Manumission.

IT being alledged by the Counsel for the said Mercy Hill the Plaintiff, that she is the Daughter of a certain Jupiter Lee, a Negro Slave, heretofore belonging to Samuel Lee of the Town of Swansey in the Colony of Massachusetts Bay, now Commonwealth of Massachusetts, and Deliverence Hill, a free-born native Indian Woman; that in her Infancy she was put apprentice to James Power of that Place, with whom, or his Assigns she served many Years, and then laboured for her Livelihood in different Places as other free Persons usually do; that long afterwards she was by some Means sold as a Slave, and by sundry Transfers and Sales came at length into the Possession of the Defendant William Leddell.

The Court having heard the Testimony, with sundry Affidavits offered and read, to prove the Truth of the foregoing Allegations, and having also heard the Arguments of Counsel on both Sides, and maturely considered thereof, *are unanimously of Opinion*, That the said Mercy Hill is entitled to her Freedom, and ought not to be held in Slavery; and do accordingly adjudge and order that the said Mercy Hill be discharged and set at Liberty from the said William Leddell, on Motion of Mr. Morris in behalf of Mercy Hill.

IN THE SAME TERM OF

September, 1783.

(p. 286. 295.)

The STATE *against* TIERCK TENBROECK.

On Habeas Corpus of Negro Philip for Manumission.

THE Court having fully considered the Evidence, and the Arguments of Counsel in this Cause, *are unanimously of Opinion*, and do adjudge, that the said Negro Philip be discharged and set at Liberty from the said Tierck Tenbroeck, and also from John Vanhorne of Rocky-Hill, in the County of Somerset, who hath appeared and claimed the said Negro Philip, On Motion of Mr. Paterfon for the State.



May Term, 1784.

(p. 33.)

The STATE *against* ADRIAN POST.

On Habeas Corpus of Negro Charles and Wife.

In November Term, 1781. (p. 467.)

ON the hearing of this Case, the Court adjudged in favor of the discharge of the Negroes, and ordered the Defendant to deliver them to the Sheriff of Bergen,

to remain in his Custody, until the further Order of the Court.

And now, on Motion of Mr. Elias Boudinot for Nicholas Covenhoven, Master of the said Negroes, it is ordered by the Court, that the Sheriff of Bergen, do on service of this Rule, deliver to the said Nicholas Covenhoven, or his Order, the said Negro Charles and Wife.

April Term, 1785.

(p. 300.)

The STATE against BENJAMIN APPLGATE.

On Habeas Corpus of Negro Peter Ridley, claiming to be manumitted.

THE said Negro *Peter* being brought into Court by Habeas Corpus, and it appearing to the Court on Testimony, that the said Negro *Peter* is the Son of a certain William Ridley, a free Negro and his Wife *Dianna*, a Negro Woman sometime the Property of *Dolans Hegenan*, and who became free before the Birth of the said Negro *Peter*, and that the said Parents of the said Negro *Peter* have ever since lived and been reputed as free.

The Court are of Opinion and do adjudge, that the said Negro *Peter* was free-born, and is entitled to be discharged as a free Man; and do order that he be discharged accordingly, on Motion of Mr. Paterson for the State.

May Term, 1785.

(p. 358.)

The STATE *against* JOHN VANHORNE.

On Habeas Corpus of Negro Prime, claiming his Freedom.

THE Court in *September Term*, 1784. (p. 125.) on return of the *Habeas Corpus*, obliged Defendant to enter into Recognizance with Security in £140. conditioned for the Appearance of the said Negro Prime at the next Term, to abide &c. and not depart &c.

November Term, 1784, (p. 195.) Recognizance continued.

April Term, 1785, (p. 299.) Argument postponed, and Recognizance continued.

And now (*May Term*, 1785.) *Morre Furman*, Esquire, Agent of forfeited Estates for the County of Hunterdon, having applied to the Court, and represented that the State hath a Claim to the said Negro Prime; it is ordered by the Court that the said Negro Prime be delivered into the Custody of John Anderson, Esquire, Sheriff of Hunterdon, until a Trial of the Property can be had, and until the further Order of the Court.

AFTERWARDS IN THE

Term of May, 1786, (p. 128.)

Morre Furman, Esq. Agent of Forfeitures for the County of Hunterdon—*against*

John Eads' wife, In Detinuo.

This action having been brought by Agreement of Parties under the Direction of the Court, to try the Property of a certain Negro Prime, and a Verdict and Judgment having passed in favor of the Plaintiff, it is ordered by the Court, on the Motion of Mr. Houston for the Plaintiff, that the said Negro Prime now in the Custody of the Sheriff of Hunterdon, agreeably to an Order of

this Court of May Term last, be delivered to the said Moore Furman, Esq. Agent of Forfeitures for the County of Hunterdon.*

November Term, 1785.

(p. 519 and 472.)

Negro GEORGE against BARNT DE KLYN.

On Habeas Corpus and complaint of cruel Treatment.

THE hearing of this Cause coming on, and the Evidence being gone through, Mr. Elias Boudinot on behalf of the Negro, prayed that Mr. De Klyn should oblige himself not to send the said Negro George out of the State, and the Court having considered thereof, required Mr. De Klyn so to do, which he accordingly did in open Court.

IN THE SAME TERM OF

November, 1785.

(p. 525.)

Negro QUAMINI against WILLIAM LEDDEL, Esquire.

On Habeas Corpus for Manumission.

IT being alledged on the Part of the said Negro Quamini, that several Years ago he belonged to Dr. Samuel Tuthill, of Morris County, from whom he was pur-

* Note. The Legislature by an Act dated 21 November, 1786, declaring themselves "to be desirous of extending the Blessings of Liberty," generously manumitted Prime from Slavery. He had been enlisted and served in the Army in the late War.

chased by Captain Augustine Bayles of the same County, that the said Captain Bayles, divers Times in his Lifetime promised the said Negro Quamini, that if he would be honest, faithful, and industrious, he never should serve any other Master, but should be free at his the said Captain Bayles's decease; that the said Captain Bayles on his Death-Bed, considering that his Wife would be left very destitute of Help, directed that the said Negro Quamini should continue in her Service during her Widowhood, and that then he should be free; that the said Captain Bayles died in the Year 1781, or 1782, and that about Two Years ago, Keziah Bayles his Widow intermarried with one Thomas Faircloth.

The Court having heard the Testimony for establishing the several Facts aforesaid, and having duly considered the same, *do order*, on Motion of Mr. William De Hart, that the said Negro Quamini be discharged, and set at Liberty from the said William Leddel, Esquire.

May Term 1787.

(p. 449.)

The STATE *against* JACOB PHILLIPS.

On Habeas Corpus of Negro Obadiah Gale.

THE Court having heard the Evidence and Argument of Counsel in this Cause, *do order* that the said Jacob Phillips enter into Recognizance in the Sum of One Hundred Pounds, conditioned, that the said Jacob Phillips on the Twenty-sixth Day of June next, liberate and discharge from his Service the said Obadiah Gale, and the Court do further adjudge and order, that on the Twenty-sixth Day of June next, the said Obadiah Gale shall be set at Liberty, and go thereof free without Day, and that the said Obadiah Gale be in Custody of the Sheriff of Hunterdon till the said Twenty-sixth Day of June next, unless the Recognizance is entered into by the said

Jacob Phillips before one of the Justices of the Supreme Court, on Motion of Mr. Elias Boudinot.

September Term, 1787.

(p. 36,—39.)

The STATE *against* JOHN B. OLIVER *and* his Wife.

On Habeas Corpus of Negro Kate.

THE Court after hearing the Arguments of Counsel, *are of Opinion*, that the said John B. Oliver enter into Recognizance in Five Hundred Pounds, conditioned that he do not send or suffer to be sent, the Negro Kate mentioned in the said Habeas Corpus, out of this State, till the Court shall take further Order therein at the next Term. Recognizance entered into accordingly by the said John B. Oliver.

The Attorney General and Elisha Boudinot for State.

Elias Boudinot and Aaron Ogden for Defendants.

Note, *The Counsel for the Defendants in this Case, contend that they ought not to be compelled to answer the Allegation of Abuse, because, as the Habeas Corpus, was in common form to bring the Body, and no Cause in particular alleged, they could not be presumed to come prepared to answer any thing but the illegal Detainer of the Negro as a Slave, and insisted that they ought not to be compelled to answer this until a sufficient Prosecutor should be indorsed on the Habeas Corpus, and Security given for the Costs: All this the Court overruled. The Counsel for the Defendants undertake that the Negro should not be ill-treated, and the dispute was afterwards settled and the Court heard nothing further of the Affair.*

September Term, 1788.

(p. 356.)

The STATE *against* DANIEL TAYLOR, Junior.

On Habeas Corpus for the bringing up a Negro Man named Harry.

THE Habeas Corpus being returned, the Court proceeded to consider the same, and Counsel both in favor of the Negro, and on behalf of the said Daniel Taylor, Jun. being heard; *It is ordered*, that the said Negro Man be discharged from being a Slave, and that he serve the said Daniel Taylor, Jun. his Master as a Servant for the Space of Six Years, from the First Day of September instant, and that from thenceforward he be entirely discharged and free from Servitude.



April Term, 1789.

(p. 437.)

The STATE *against* DAVID LYON.

On Habeas Corpus of Negro Margaret Reap, claiming her Freedom.

UPON the hearing before the Court, it appeared, that Zachæus Mayhew, of Massachusetts, by Deed of Gift, dated the first Day of *March*, 1750, did give a certain Negro Girl called Flora, unto his Daughter, Lucy Little, then the Wife of Little—That the said Lucy Little afterwards being a Widow, and having One Son called William Little, intermarried in Massachusetts with a Dr. Joseph Eaton, who came from thence with his Wife to Shrewsbury in *New-Jersey*, and at the same Time brought the said Negro Flora with them—That on the 31st Day of *August*, 1752, the said Dr. Eaton sold the said Negro Flora with a Child she then had called

Rose, unto one John Worthley—That the said John Worthley by Bill of Sale, dated 27th *September*, 1753, sold the said Negro Flora to one John Williams—That John Williams the 8th of *May*, 1754, sold the said Negro Flora to the aforesaid Dr. Eaton for the Sum of Sixty-Pounds York-Money—That the said Dr. Eaton upwards of Twenty Years ago, and about Five Days after one Jacob Dennis had purchased the aforesaid Negro Girl Rose, Daughter of the said Flora, of the said John Worthley, he the said Dr. Eaton informed the said Jacob Dennis, he was collecting those Negroes for William Little (his Son-in-Law)—that they should return to him again as they belonged to him; and at that Time and often afterwards declared that he was principled against Slavery, and that he never intended the said Flora should belong to his Estate, nor should any of his Children be benefited by having her as their Property—It also appeared that the said Lucy Eaton survived her said Husband, the said Dr. Eaton—That shortly after the Death of the said Dr. Eaton (*to wit*, about Seventeen Years ago) one Thomas White applied to the said Lucy Eaton to purchase and did purchase at private Sale, a small Spinning Wheel, which she then said she had not any further Use for, as she had given Flora free who used to spin on the said Wheel—That since that Time the said Flora has passed for, and been esteemed a free Woman, and for a considerable Time worked about in the Neighborhood of the said Widow Eaton, and in the House of the said Widow, and for the Wife of John Eaton the eldest Son of the said Dr. Eaton, and always received her Wages as well from the said John Eaton's Wife, as the Neighbours; and the said Widow Eaton herself promised to compensate her therefor—And it further appeared that whilst the said Flora worked about for herself as aforesaid, she intermarried with a certain Joseph Reap, a free Negro, with whom the said Flora has ever since lived unmolested and as a free Woman, and still continues so to live—That after the marriage of the said Flora with the said Joseph Reap, she had Two Children called Lydia, and *Margaret* (the present Claimant), that these Children lived with their said Father and Mother, who brought them up by their own Industry without any Expence or Trouble to any other Person whatsoever, until

last Fall, when they were taken away from their said Parents without their Consent—That since the said taking, it appears by a certain Instrument of Writing, bearing date the 8th Day of *January*, 1789, executed under the Hand and Seal of the aforesaid William Little, (the Son-in-Law of the said Dr. Eaton, and for whom the said Dr. Eaton declared as aforesaid, he was collecting the Negroes)—That the said William Little hath manumitted and set at Liberty the said Flora and her said Two Children, Lydia and Margaret; whereupon

The Court having considered this state of Facts, and the arguments of Counsel on both Sides thereupon, *are of Opinion*, That, permitting the said Negro Woman Flora to remain at Liberty for so long a Time, and to work for herself, and having intermarried with the said Joseph Reap a free Man, with whom she has ever since lived as a free Woman, is such Evidence of Freedom, both of the said Negro Woman Flora, and consequently of her Children, as to entitle the said Negro Margaret Reap to her Discharge; and the Court do therefore accordingly *order* the said Negro Margaret Reap to be discharged and set at Liberty from the said David Lyon; on Motion of the Attorney General.

Bloomfield, Attorney General, and R. Stockton for the State.—

M. Williamson, and Aaron Ogden for Defendant.

IN THE SAME TERM OF

April, 1789,

(p. 438.)

The STATE *against* JOHN LEIGHTON.

On Habeas Corpus of Negro Lydia Reap, returnable the first Day of this Term.

THE Court order an Attachment against the said John Leighton, for contempt in not returning the said Writ of *Habeas Corpus*, agreeably to the Command thereof, and for divers Expressions made use of by him reflecting on the Authority of this Court and its process, on Motion of Mr. Attorney-General.

April Term, 1790.

(p. 42.)

The STATE *against* LEWIS PRALL and ROBERT ROSS
Administrators of ISAAC PRALL, deceased.

On Habeas Corpus of Negro Thomas claiming his Freedom.

[Habeas Corpus returned and filed.]

RETURN,

“WE have the Negro in the above Writ named, at the Day and Place as by the said Writ we are commanded, and we do certify, that we as Administrators of all and singular the Goods and Chattels, Rights and Credits which were of Isaac Prall, deceased, took Possession of said Negro as part of the personal Property of the said Isaac Prall, and that there is no other Cause of detaining him.

LEWIS PRALL,
ROBERT ROSS, JUN. } Administrators.”

Upon the hearing in this Cause, it appeared to the Court that the said Negro Thomas belonged to the said Isaac Prall, deceased—That the Intestate, about Three Years before his Death, and frequently afterwards, declared that Tom should never have another Master—That he had been a faithful Servant to him—That they had been born under one Roof, that they had received Sustenance from one Breast, and had broke up the Ground, and always lived together; and continued to shew great Affection and Regard for the Negro until his last Sickness, and during that Sickness whilst he had his Senses—That in his last Illness, on the Friday before he died, he requested a Person might be sent for to make his Will, at which Time his Sister being present, she asked him what he intended to do with his Negroes, he replied they should all be sold but Tom, and he should be free; which Declaration he also made the same Day to several others, with this, further, that Tom should not serve any other Master—The Person sent for to write his Will, did not come ’till the next Day, when

the Intestate was so deranged in his Mind as to be incapable of making his Will, and continued so until he died, which was on the Wednesday following; that the said Intestate, after he was in some measure deranged, continued to shew strong and evident Marks of Affection for the said Negro, and of the Continuance of his Design and Intention to make him free: It also appeared to the Court that the said Negro had always before the Death of the Intestate, and till that Event took place, been much attached to his Master, had shewn a great Affection for him, and had behaved himself well and faithfully.

The Court having considered of the whole Case, and the Arguments of Counsel for and against the Manumission of the Negro, *are unanimously of Opinion*, That the frequent and full Declarations of the Intestate, amounted to more than a bare Intention of doing something in future; that even if these Declarations were taken in the Sense of a Promise to do something in future, the good Behaviour of the Negro which was admitted on all Hands, the evident Continuation of the Affection of the Master as long as he had his Senses, and even when in some Measure deprived of them, afforded a strong Ground of Presumption of a Contract between the Negro and Master for his Freedom, conditionally on his behaving well, which having performed on his Part, the Negro was entitled to his Liberty, and that the Performance of the Condition on the Part of the Master and his Representatives, might be effected on this Habeas Corpus, *do therefore adjudge*, That the said Negro Tom being entitled to his Freedom, be discharged from the Custody of the said Administrators, and all the Representatives of the said Isaac Prall, deceased. On the Motion of Mr. Bloomfield, Attorney-General.

*Attorney-General, and Elisba Budinst, for the State.
Freelinghuysen and Aaron Ogden, for Defendants.*

May Term, 1790.

(p. 85.)

The STATE *against* TOBIAS HENDRICKSON.

On Habeas Corpus of Negro Jack claiming his Freedom.

THE Court having considered this Case under all its Circumstances, and it appearing that John Coward the former Master, under whom Tobias Hendrickson claims Title to the Negro, antecedent to the Year 1785, actually entered into an Agreement with Jack for his Freedom, the Terms of which have been fully complied with; *The Court are therefore of Opinion, and do order,* the said Negro Jack to be liberated from the Custody of the said Tobias Hendrickson—But as John Coward the former Master is not before the Court, and of Course not heard, and his Interest may be materially concerned, this Judgment for the Liberation of the said Jack is not to affect any present or future Claim of the said John Coward.

September Term, 1790.

(p. 119.)

The STATE *against* JOHN WARE.

On Habeas Corpus of Negro Jethro (Son of Charity Briggs) claiming his Freedom.

IT appearing to the Court that the said Negro Jethro was born on the eighth Day of September, 1768, in the County of Cape-May in this State; that his Mother Charity Briggs a (Mulatto Woman) was free at the Time of his Birth—That the said Charity was by Indenture bound by the Justices and Overseers of the Poor of the Lower Precinct of Cape-May to one Nathaniel Foster, in order to bear the Expences of her having had the Small-Pox—That in the said Year of 1768, the said Charity was purchased by a certain John Connel, the

then having the said Jethro an Infant at her Breast— That afterwards the Time of Service of the said Charity was sold by Connel to Captain Jonathan Jenkins, and that she the said Charity took her said Son with her— That the said Jethro her Son, was brought up by Jenkins until he was fit for Business, and then was sold unto Christopher Learning of the said County of Cape-May, who kept the said Jethro a number of Years, and within Two Years last past sold the said Jethro unto John Ware of Cumberland, the Defendant now in Court, for the Term of Twelve Years and Eight Months, and by Bill of Sale engaged to warrant the Service of the said Negro Jethro for the said Term.

And the Court having taken the said Case into Consideration, *are unanimously of Opinion*, That the said Jethro being the Son of a free Woman, and of the Age of Twenty-one Years, is now entitled to his Freedom, and do therefore adjudge, that the said Negro Jethro (otherwise called *Jethro Briggs*) be discharged from the Custody of the said John Ware, on the Motion of Joseph Bloomfield, Attorney General.

IN THE SAME TERM OF
September, 1790.

(p. 141.)

The STATE *ag. inst* JAMES ANDERSON.

On Habeas Corpus of Negro Silas claiming his Freedom. Returnable Saturday 11th September, and returned accordingly.

The Defendant appears with the Negro, to do and receive, &c. pursuant to Recognizance.

THE Case stated by Counsel for, the Opinion of the Court is as follows,

That on the fourth Day of December, 1761, John Horsfield was entitled to Two Negro Girls, named Betty and Nelly as Slaves; and on the said fourth Day of December by his last Will and Testament, (then dated) made the following Devise, “ Item, my Two Negro Girls named Betty and Nelly, I leave to be sold by my Executors, hereafter named, for the Term of Fifteen Years, and at the end of that Time to be free, and

“ the Money arising thereby, to be equally divided amongst my Four youngest Daughters, and they that buy the said Negro Girls, if the said Girls or either of them Misbehave, or become chargeable, it must be at the Risk or Cost of the Buyer.” That the said Executors sold the said Negro Girl to one Covenhoven, who sold them to the present Defendant Anderson, for the Term mentioned in the Will—That Betty had a Child (the Negro Silas) now of full Age, which Child was not born in Matrimony.

The Court having considered the above State of Facts, are *unanimously of Opinion*, That on the Death of John Horsfield the Testator, Betty ceased to be a Slave, that she ceasing to be a Slave, no Child born of her Body can be deemed so by the Birth of such Child during the Fifteen Years, and that the Claim of James Anderson to hold the said Negro Silas as a Slave, is not warranted by Law : *Wherefore it is ordered*, That the same Silas be liberated from the illegal Detention of the same James Anderson, and he is hereby liberated accordingly, *ex motu* J. Bloomfield, Attorney-General.

The Attorney-General, Fisher, Howell and Todd for the negro.—R. Stocktor and Frelinghuysen for defendant.

N O T E.

Chief Justice Kinsey, in giving the Opinion of the Court said,

BY the words of the Will taken together, It appears that the Testator intended to increase the Daughters' Portions, to effect this Purpose, he ordered the Mother of the Negro now before the Court, and another, to be sold by his Executors for the Term of Fifteen Years, and every Construction which will not detract from this Intention should be made in a Case of this Nature—It is also evident that the Testator foreseeing probably, that some Means might, after his Death, be made use of to frustrate his benevolent Design, took care to guard against it, by ordering that whoever should purchase these Negroes, the Purchasers should run all Risques, and be at all the Expence which should arise from their Misbehaviour, the most probable Grounds on which that Attempt might be made—The Chief Justice was of Opinion, that these words take in the Fact which has happened, and the Purchaser ought not to avail himself of it by making a Slave of the Child—

IN THE SAME TERM OF
September, 1790.

(p. 120.)

The STATE *against* JOSHUA FARLEY.

ORDERED, that a Habeas Corpus do issue, directed to the said Joshua Farley for the Body of Negro

He thought this might be sufficient to say on the present Occasion, but he would go further, and say that in his Opinion, at the Death of the Testator, the two Negro Women were not Slaves, no body at that Time had that absolute Property in either, which distinguishes the Slave from what we call a Servant, and the Retention of the temporary Interest excludes that Supposition intirely—The Argument made use of by the Counsel for the Claimant, from the Word *sell*, might have had some Weight if it had not been coupled with and explained by the particular Time to which it applies, but taken together, it is of no kind of Consequence, neither could he give his assent to the Idea suggested that both were Slaves until the Expiration of the Fifteen Years: Indeed the thought in his Opinion was absurd, for he had no other Idea of a Slave but where, the Servitude is perpetual, or in other Words for Life—Neither did he see the Impropriety of supposing, that the Right to Freedom subject to the Temporary servitude, might vest in the Negro at the Death of the Testator—If this be so, and if the Misbehaviour of the Mothers were not to affect themselves, he could not bring himself to entertain an Opinion that it should affect their innocent offspring and make them Slaves: all that Anderson bought was the Service of the Mother for a Term of Years, and that too subject to all Risques: As the Party buying, had nothing else in Contemplation, no Construction can be unjust which gives that Right in the fullest extent to him, and if he suffers by his Bargain, it is no more than he undertook to subject himself to, and a Construction of this Nature appeared much more Rational than one which subjects a human Creature to be a Slave for no Fault of his own. For these Reasons the Court were unanimously of Opinion that the Claim of James Anderson is unfounded and the Negro Boy should be liberated from his Custody.

Joseph here on the first Day of the next Term, *ex mo. Linn.*



November Term, 1790.

(p. 165.)

The STATE *against* JOSHUA FARLEY.

On Habeas Corpus of Negro Joe claiming his Freedom.

THE said Joshua Farley having returned that the said Negro Joe in the Writ named, before the coming of the said Writ, was and still is, the Negro Slave of him the said Joshua Farley, and that he had, and still hath Right and Title to hold the said Joe a Slave during Life; and thereof tendered an Issue to the Country, and prayed the Court that the said Issue so tendered might be tried by a Jury of his Country; whereupon, The Court having heard Counsel, and taking the Matter into Consideration, are of Opinion that a Jury in this Case is improper, and therefore do refuse the same.

The Evidence both for and against the Claim of the said Negro Joe to be set at Liberty, being fully heard, and Counsel thereupon on both sides.

The Court do adjudge that the said Negro Joe is illegally detained in the Custody of the said Joshua Farley, and therefore do order him to be discharged from the said Custody and illegal Detention of him the said Joshua Farley, on the Motion of Elisha Boudinot.

May Term, 1791.

(p. 248.)

The STATE *against* JOSEPH BEAVERS, JOHN CLIFFORD, and JOHN MARTIN, *Administrators of* EDWARD CLIFFORD, *deceased.*

On Habeas Corpus ad subjiciendum, for the Liberation of Negro Abraham Solomons, and Negro Dolly his Wife.

The Attorney-General, Elisha Boudinot, and Linn, Counsel for the Negroes.—Leake and Richard Stockton, Counsel for the said Administrators.

THE Defendants having returned the Bodies with the Cause &c. " That they are the Negro Slaves of

“ the said Defendants of the Estate of their Intestate,
 “ and that they have Right to hold them as such, during
 “ Life,” and thereof having tendered an Issue to the
 Country, and prayed that the same might be tried by a
 Jury of the Country.

The Court considering that this Point was fully argued and determined by them in the Case of the State against Joshua Farley, *November Term* last, do refuse to hear any Argument thereupon, and do direct that the Cause be opened and heard before the Court in the usual Manner; whereupon,

The Court having heard the Return filed and Evidence and Allegations of the Parties, *do order*, on Motion of Mr. Leake, Attorney for the said Administrators, that the said Abraham and Dolley be remanded into the Custody of the said Administrators.

IN THE SAME TERM OF

May, 1791.

(P. 257.)

The STATE *against* ABRAHAM PROBASCO.

On Habeas Corpus of Negro Hagar, Wife of Cornelius Wilson, and Cornelius, Lydia and Anna their Children, praying their Freedom, detained by the Defendant, claiming their Service for Life.

[Habeas Corpus returned this Term and filed.]

THE Court having fully heard the Allegations and Proofs of all Parties, and the Arguments of Counsel thereon; it appeared to the Court, that the said Negroes brought up on the said Writ, were in the Year 1776, the Slaves of William Winds, Esq. of the County of Morris;—That the said William Winds, in consideration of the good Behaviour of the said Negro Cornelius Wilson the Father, in the said Year 1776, did manumit and set free the said Cornelius, his Wife Hagar, and all the said Children—That the said Cornelius and his Family built a House on the Lands of the said William Winds by his Assistance, and with his Permission, and lived thereon as Free Citizens for the Term of Three Years, when the said Cornelius Wilson and Wife were taken sick; on which the said William Winds removed them to a House near his own, and took care of them till they recovered, when he employed them and paid them

Wages for their Labor as free Persons; That the said William Winds, fearing they might become a burthen on his Estate, urged them to obtain security to indemnify him from any Expence in Case of their becoming a Charge—That thereupon the said William Winds gave to the said Negro Cornelius Wilson a Pass to go into the County of Monmouth to obtain such Security—That the said Cornelius accordingly went to the said County of Monmouth, and agreed with Abraham Probasco the Defendant, that in Consideration of his becoming Security to the said William Winds, he and his Family would serve him Five Years—That the said Abraham Probasco in Consequence thereof, came to the said William Wind. and agreed with him accordingly, and in order to secure the said William Winds, the said Abraham Probasco proposed, that the said William Winds should give to the said Abraham a Bill of Sale for the said Negroes, and at the end of Five Years, the said Abraham would release the said Negroes and set them free: That a Bill of Sale for the Consideration of Five Shillings, without any Condition or Reservation was drawn up accordingly by the said Abraham, and executed by the said William, and a Receipt given by the said Abraham to the said William therefor, calling it a Deed of Gift—That at the Execution of the said Instrument or Bill of Sale, the said William Winds mentioned his Fear lest the said Abraham should claim the said Negroes as Slaves by virtue of the said Bill of Sale, when he and the Witnesses should be dead, and declared that altho' he could get Two Hundred Pounds for the said Negroes, yet he had given the said Bill of Sale for Five Shillings in order that they might be free—That the said Negroes have faithfully served the said Abraham for more than Six Years under the said Agreement, and are still detained by the said Abraham who claims their Service for Life by Virtue of the said Bill of Sale.

The Court therefore having maturely considered the Premises, *are unanimously of Opinion*, That the said Negroes and every of them, be discharged from the Custody of the said Abraham Probasco as free Citizens, and they are hereby discharged accordingly, on Motion of Mr. Attorney-General, Bloomfield.

*The Attorney General, and R. Stockton for the Negroes.
Kirkpatrick for Defendant.*

September Term, 1792.

(p. 471.)

The STATE *against* WILLIAM LAIRD.

*On Habeas Corpus of Negro Rachel claiming her Freedom.
[The Writ returned and filed.]*

THE Court taking into Consideration this Case, and it appearing to depend on the Decision, in the Case of the State against James Anderson, on the Habeas Corpus of Negro Silas, *September Term, 1790*, ordered, That the said Negro Rachel be discharged and entirely liberated from the Custody of the said William Laird, on the Motion of the Attorney-General.

April Term, 1793.

The STATE *against* BENJAMIN COVENHOVEN.

*On Habeas Corpus of Negro Agnus, claiming her Freedom.
[The Writ returned and filed.]*

THE Court having considered this Case, and it appearing that the same depends on the Decisions in the Case of the State against James Anderson, on the Habeas Corpus of Negro Silas, *September Term, 1790*, ordered that the said Negro Agnus be discharged, and entirely liberated from the Custody of the said Benjamin Covenhoven, on Motion of the Attorney-General.

May Term, 1793.

The STATE *against* JAMES PITNEY of the County of Morris.

On Habeas Corpus of Negro James, a Boy about Thirteen Years of Age, claiming his Freedom.

THE Case upon the *Habeas Corpus* and Return, coming before the Court appeared to be as follows,

Jasper Smith of the Township of Maidenhead, in the County of Hunterdon, by Will bearing Date the 29th Day of *November, 1769*, (amongst others) made the following Devise, " And as for all my Negroes, Jack, old Juddy, and young Juddy, with all her Children, and with all their Cloaths, Chests, Beds, and Bedding, after my Decease, I do hereby order that they are all

“ by me for ever freed from all Servitude from me or
 “ any of mine, and from all others whatsoever at my
 “ Decease, and that they may go and work for their
 “ Living with whomsoever they please”—That the said
 Jasper Smith afterwards died—That notwithstanding the
 said Will, the said Negroes, and in particular the said
 young Juddy were detained by Joshua Smith, Son of the
 said Jasper, and one of the Devisees named in the said
 Will, that during such Detention and before the Death
 of the said Joshua, the Negro James in the present Habeas
 Corpus named, was born of the Body of the said
 Juddy—That the said Joshua Smith died, leaving Keziah
 Smith and John Biles his Executors, and the said Negro
 Juddy and her Son James in their Possession—That
 on the 9th Day of March, 1790, the said Keziah Smith
 and John Biles, as Executors of the said Joshua Smith,
 by Bill of Sale of that Date, conveyed the said Negro
 James to James Pitney the Defendant in the Habeas
 Corpus named; but that no Bond or other Security
 whatsoever was given by the said Jasper Smith, the Master
 of the said young Juddy and Testator in the Will above
 named, pursuant to the Act of Assembly passed 16th
 November, 1769; whereupon,

The Court having taken due Consideration, *are unanimously of Opinion*, That the said Negro Juddy the Mother of the said James, was a free Woman by the Will of the said Jasper Smith, the want of Security pursuant to the said Act of Assembly notwithstanding, and that consequently the said James her Son is entitled to his Freedom, and do therefore *order*, that the said James be discharged from the illegal Detention of the said James Pitney, and he is discharged accordingly, on the Motion of Mr. Bloomfield for the State.

F I N I S.

E R R A T A.

Page 5, line 4, dele *of the State*.

Page 8, after line 7, read *Kinsley, Elias Boudinot, and Skinner Attorney-General, for the Negro. Sergeant and Paterson for Defendant.*

Same page, after line 16, dele the names of Counsel.

Page 15, line 24, for *Eauhouse* read *Vanborne*.